

# WASHINGTON STATE GAMBLING COMMISSION

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## MINUTES COMMISSION MEETING THURSDAY, JUNE 10, 1993

**Chairman Graham** called the meeting to order at 1:30 p.m., at the Sheraton Hotel, Seattle, Washington.

**MEMBERS PRESENT:**PATRICK GRAHAM, Chairman; Commissioners THOMAS KEEFE, ARDITH DIVINE and WANDA MOSBARGER, and Ex Officio Member REPRESENTATIVE JUDI ROLAND.

**OTHERS PRESENT:**FRANK MILLER, Director; SHARON TOLTON, Special Assistant to the Director; BEN BISHOP, Assistant Director; NEAL NUNAMAKER, Deputy Director; JEANNETTE BRYCHELL, Financial Investigations; JONATHAN McCOY, Assistant Attorney General; SUSAN YEAGER, Executive Secretary.

### STAFF REPORTS

**Ben Bishop** handed out a packet with the Commission's application to the Board of Accountancy. He said he'd be glad to answer any questions. **Director Miller** said he believes it gives a good overview of the agency and what staff does. He said there are no more staff reports today.

### LICENSES, CHANGES, WITHDRAWALS and TRIBAL CERTIFICATIONS

**Commissioner Mosbarger** moved for approval as set forth in the agenda packet; **Commissioner Divine** seconded the motion, motion carried.

### REVIEW OF FRIDAY'S AGENDA

**Ms. Tolton** said there is one scheduled staff report, which will be a review of the adolescent prevalence study on problem gambling, and Shanna Lingel will be giving that presentation tomorrow. There are eight rules up for discussion and final action on tomorrow's agenda. The first one was continued from last month and deals with entertainment at bingo halls. There are also a number of rules proposed by staff in conjunction with the bingo study group. There is a rule regarding Washington Blackjack rules of play, which is presented by staff and the card room study group. There are also three rules for discussion and possible filing that are housekeeping changes addressing changes in the RCW. There will be an addendum to the agenda, a petition from Sugarloaf Corporation.

**Chairman Graham** reminded everyone that there is a hearing on appeal at 11:00 a.m. tomorrow, so he may have to interrupt the regular meeting at 11:00 a.m. and return after the hearing to finish up the agenda items after that.

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## **GENERAL DISCUSSION**

**Director Miller** said there are a few items to discuss tomorrow, but nothing today. **Chairman Graham** said that tomorrow the Commission will be electing a new chairman, as his term runs out the 30th of June; and the commissioners will also vote on who will represent the Gambling Commission on the legislative task force, which is now being named to study the future of gambling in this state. **Chairman Graham** said there would be an executive session later this afternoon. There are also three formal reviews; one at 2:00 p.m., one at 2:45 a.m. and one at 3:30 p.m. He said if any of these groups would be ready to go early, they should let the Commission know.

**Director Miller** asked Jonathan McCoy to give a brief overview of what happened with the Colville lawsuit. **Mr. McCoy** said there are two cases they should be aware of. The first is, on May 28, the Colville case was argued and on June 4 the order was issued by the Eastern District of Washington Court, which dismissed the Colville Tribe's suit on the basis of the state's motion to dismiss under the 11th Amendment of the U.S. Constitution, which says that states may not be sued in federal court absent their consent. The Court ruled that this state had not given consent and the suit was dismissed. The Court also ruled that the provision of the Indian Gaming Regulatory Act that required the states to negotiate was unconstitutional and proceeded to strike down the entire section dealing with compact negotiations. Mr. McCoy said he's not sure what effect that will have. There is no indication yet about whether the Tribe will appeal, although Mr. McCoy said he's certain they will. He said he has other litigation issues to discuss in executive session.

**Chairman Graham** called for a recess until 2:00 p.m. for the first formal review. **Mr. Bishop** suggested doing the recertifications at this time and take up the formal reviews after that. **Chairman Graham** and **Commissioner Mosbarger** agreed.

**Mr. Bishop**, while Ms. Brychell was getting ready to present the formal reviews, told the commissioners said the punchboard/pull tabs instructional video has been completed by staff and that he'd play the video for anyone who'd like to see it after today's meeting. He also said he had some copies available and that there will eventually be a poster that will go out to the licensees with the video. It will help the bartenders and Gambling Commission agents explain what to do.

## **RECERTIFICATION REVIEWS**

### **American Legion #86, Blaine**

**Jeannette Brychell** said they have a Class F bingo license and also hold punchboard/pull-tab and raffle licenses. The organization's statement of purpose has not changed from the previous year. The organization maintains a community service club in Blaine, and members meet once a month to conduct club business and have the opportunity to participate in a variety of recreational and social activities. During the fiscal year, the organization donated more funds than it ever has. There were 864 general public and members served. Contributions totaled \$27,773. Net gambling revenues comprised 83.2 percent of total revenues with bingo net income comprising 32 percent of total revenues; 47.3 percent of total expenses was for program services, and 23.1 percent for administrative costs. Staff recommends recertification as a patriotic organization. **Chairman Graham** said the American Legion #86 has a very impressive list on contributions.

**Commissioner Divine** moved for recertification; **Commissioner Mosbarger** seconded; motion carried with three aye votes (Commissioner Keefe abstained from voting).

#### **B.P.O.E. #823, Vancouver**

**Ms. Brychell** said they are a fraternal organization with a Class H bingo license and a Class G punchboard/pull tab license. Their statement of purpose remains unchanged from the previous year. The organization maintains a community activity center for members that includes administrative offices, conference rooms, a lounge, bowling alley and party rooms. The organization sponsors youth baseball teams and awards annual scholarships. Charitable and civic services are provided through volunteer projects and contributions of food and cash to needy families; 50,000 of the general public and 1,464 members were served during the year, and contributions totaled \$19,719. Net gambling revenues totaled 63.2 percent of total revenues, with bingo net income comprising 46.9 percent of total revenues; 60.7 percent of expenses were for program services, and 32.9 percent were for administrative costs. Due to problems with the organization's financial statements, staff recommends temporary recertification as a fraternal organization, pending the review of next year's financial statements. **Chairman Graham** asked if they are presently operating with a temporary license; **Ms. Brychell** said she doesn't think so. **Mr. Bishop** said not that he's aware of; **Ms. Cass-Healy** indicated that they are not operating under a temporary.

**Commissioner Mosbarger** moved for temporary recertification; **Commissioner Divine** seconded; motion carried with three aye votes (Commissioner Keefe abstained from voting).

#### **F.O.E. #2, Spokane**

**Ms. Brychell** said they are a fraternal organization and hold a Class G bingo license and also hold punchboard/pull-tab and raffle licenses. Their statement of purpose is unchanged from last year. The organization maintains a multi-purpose facility in Spokane, which includes an athletic club, meeting rooms and social and recreational rooms. They also own and operate an ice rink adjacent to the main facility. They sponsor weekly health clinics, exercise classes, parties and theatrical shows for members and the general public; there were 8,038 members served during the year, and 7,520 general public were served. Contributions for the year totaled \$1,860; net gambling revenues totaled 13.4 percent of revenues; bingo revenues totaled 2.7 percent of those revenues. Program services consisted of 61.2 percent of total expenses, with 38.5 percent of expenses going toward administrative costs. Staff recommends recertification as a fraternal organization.

**Commissioner Divine** moved for recertification; **Commissioner Mosbarger** seconded the motion; motion carried (Commissioner Keefe abstained from voting).

#### **Seattle Cascades, Seattle**

**Ms. Brychell** said they are an educational organization with a Class J bingo license and Class J punchboard/pull-tab license. Their statement of purpose is unchanged from the prior year. The organization's primary activity is to provide funding to cover travel, staffing, uniforms, and instrument expenses of the Seattle Cascades Drum and Bugle Corps. The organization coordinates a training program for three flag teams and a musical corps, which competes in competitions across the U.S. and Canada. During the year 200 clients were served by the

organization; 97.1 percent of total revenue was gambling revenue; bingo net income comprised 70.9 percent of total revenues; 93.6 percent of total expenses were for program services, with 6.2 percent going towards administrative costs. Staff recommends recertification as an educational organization. **Commissioner Divine** moved for recertification; **Commissioner Mosbarger** seconded the motion, motion carried (Commissioner Keefe abstained from voting).

#### Triune Association of WA., Seattle

**Ms. Brychell** said they are a charitable organization with a Class H bingo license, and hold punchboard/pull-tab, amusement game and raffle licenses. Their statement of purpose is unchanged from the prior year. The organization operates five recovery houses in the greater Seattle area for individuals who are recovering from chemical dependency. They promote the concept of total recovery by providing transitional housing, counseling and support services to encourage independence in recovery. Clients served totaled 3,190. They suffered a net gambling loss of \$4,108 for the year, with a bingo net loss of \$6,359. Program services totaled 82.1 percent of expenses, and 17.9 percent was for administrative costs. Due to the losses in their gambling activities, staff recommends temporary recertification as a charitable organization, pending the review of their financial statements for the next fiscal year. **Chairman Graham** asked if they'd been operating under temporary certification or have they ever. **Director Miller** said they aren't under temporary now, but they have operated with temporary certification before. **Mr. Bishop** said they were before the Commission for a special review two years ago under temporary and were certified last year. **Chairman Graham** asked how long it would be before this is settled. **Ms. Brychell** said staff has been working with them. **Mr. Bishop** said staff is in the middle of negotiating a case settlement where they had agreed to reduce their expenses to gain compliance. He said he's confident a settlement will be reached within the next month. **Commissioner Mosbarger** asked what they will reduce their expenses by; **Mr. Bishop** said he doesn't have the particulars, but they came back with a proposal to reduce expenses by \$3,000 a month. Currently the organization has loans from its officers, which will be paid back if and when they have profit. **Commissioner Divine** moved for temporary recertification; **Commissioner Mosbarger** seconded the motion, motion carried (Commissioner Keefe abstained from voting).

**Chairman Graham** called for a short recess before the 2:00 p.m. formal review.

\*\*\*\*\* R E C E S S \*\*\*\*\*

#### FORMAL REVIEWS

2:00 P.M.

#### Seattle Skating Club, Seattle

**Ms. Brychell** said they are an athletic organization located in Edmonds and hold a Class K bingo license and a punchboard/pull tab license. Their statement of purpose is unchanged from the prior year. They served 222 clients during the year and made contributions of \$34,834. Staff recommends recertification as an athletic organization. She called on Colleen Park, president, to give a presentation.

**Ms. Park** introduced the board members present. She said the organization's objective is to encourage youth to participate in the sport of amateur figure skating; although in the last couple of years, skating has changed in that there is no longer such a thing as an amateur skater. **Ms. Park**

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said they still concentrate on youths who are amateurs. She said she has nothing to add to the fiscal year presentation for the fiscal year ending June 1992 that was given the previous year. She said that, in her first year as president, they have accomplished many things toward their goal. There are ten board members who are all volunteers. The bylaws do not allow board members to be compensated, and these volunteers come from all aspects of figure skating and they determine the policies of Seattle Skating Club. Last year there were 18 committee chairpersons. Two significant accomplishments were establishing a new scholarship committee to determine criteria for awarding scholarships, and producing the first show they've put on in seven or eight years. Approximately 100 skaters took part in the show, ranging from age 4 to age 66. Seattle Skating Club conducted 188 figure skating tests in the past year; 72 were figures, 10 were free style and 106 dance. The organization continued the policy of reducing financial burdens for skaters' families by purchasing ice at two arenas and offering the time to skaters at a very reduced cost. Additional financial aid was given to 12 skaters who advanced to sectional competitions; seven who advanced to nations, and six who advanced to the juvenile intermediate competitions. **Ms. Park** said they also contributed to training costs. They also worked toward the opening of the new rink in partnership with Seattle Junior Hockey. Another project was the re-writing of the Seattle Skating Club bylaws, which was done by volunteers to bring the club more in line with the USFSA. Membership has grown to 436 members, which makes them the fourth largest club in the USFSA.

**Chairman Graham** said the net bingo revenues in 1992 were down \$75,000 and asked why; she said the game is located in a very competitive area and, in the very last quarter of that fiscal year, a new game opened and operated on the same days. **Chairman Graham** asked if there has been recovery from that; **Ms. Park** said yes, progress has been made over the last year. **Chairman Graham** asked how this affects their participation in the opening of the new year financially; **Ms. Park** said they had put aside funds in planning for the arena and the budget has been readjusted to reflect the costs of the new arena. **Commissioner Mosbarger** for approval of recertification; **Commissioner Divine** seconded the motion, motion carried (Commissioner Keefe abstained). **Chairman Graham** reminded them of their responsibility as a charitable organization, and complimented them on their ability to roll with the punches as they did when they had to re-budget for losses. He thanked them for coming.

**Chairman Graham** adjourned the meeting until the 2:45 p.m. formal review.

#### **Imperials Music and Youth Organization, Seattle**

**Ms. Brychell** said they are an educational organization with a Class L bingo license and hold a punchboard/pull tab and amusement game licenses. Their statement of purpose is unchanged from the prior year. They served 8,227 clients last year and made contributions of \$47,642. Staff recommends recertification as an educational organization. She introduced Greg Murray, Executive Director, to make the presentation.

**Mr. Murray** introduced the president, staff and board members who were present. **Mr. Murray** said the organization began a public awareness campaign a year and a half ago to let the residents of King County know what their services are in the community and the positive impact they have had on the youth in the area. He showed a video describing the programs and the progress they have made as an organization with the funds they receive from gambling revenues. The video included music, interviews with kids in the programs and with instructors.

**Mr. Murray** said that, last year, the organization served more than 8,000 young people in the area, with over 33,000 hours of music instruction. He said the students come away with a sense of pride and accomplishment, dedication to excellence and a heightened sense of self-awareness and self esteem. The Imperials enforce these values in all of their programs. The video explains goals for the future, and next year they will be opening seven community music centers throughout the King County area and expanding outreach to the community with quality music programs. He said the commissioners each have a packet that outlines the "Vision 2000" process and performance and programs. There is also a breakdown of revenues and expenses for last year. There is also a CD contained in the packet that has jazz performances recorded in a professional studio by students. This year a double CD and a Christmas CD was recorded by the orchestra program, choral group, jazz program and members of the private lesson program.

In addition to the donations listed, **Mr. Murray** said the organization gave more than \$8,000 in scholarships to students and are about to award a scholarship for one year's full tuition at the University of Washington. The administrative costs are higher this year because a development marketing manager was hired to expand funding sources beyond bingo. The CD was one of the promotional projects that resulted. They have received \$28,000 in donations this year. They are negotiating to renew the lease on the current bingo facility, which they have decided to remodel, since the combined facility petition did not go through. Yesterday, one of the advisory board members said he may be donating office space to the organization.

**Mr. Murray** said the Imperials organization has really moved forward to achieve its goals and serving the youth of this area. He asked if there were any questions or comments.

**Commissioner Divine** said this sounds like a wonderful program. **Commissioner Mosbarger** asked if they were selling the CDs. **Mr. Murray** said the Christmas CD will be marketed and sold. **Commissioner Mosbarger** said she is delighted to move for recertification; **Commissioner Divine** seconded the motion, motion carried with four aye votes (Commissioner Keefe abstained). **Chairman Graham** said the organization is unique, and the State of Washington is also unique in that it offers non-profit organizations bingo in order to make money. He reminded the board of its responsibility. **Mr. Murray** said they much appreciate the opportunity to have bingo as a revenue source.

#### **Central Area Youth Association, Seattle**

**Ms. Brychell** said they are a charitable organization with a Class M bingo license and a Class J punchboard/pull-tab license. The organization's recertification report and financial information was previously presented at the January meeting, but at the licensee's request, the formal review was postponed at that time. At the January meeting, CAYA was granted temporary recertification, and staff recommends continuing that temporary recertification, pending completion of a current audit. She introduced Michael Preston, executive director.

**Mr. Preston** asked their president, Buddy Brown, to make a few brief comments first. **Mr. Brown** said he's been on the board for 21 years and he's delighted to be here with the organization to make this report. They are appreciative of the Commission's cooperation and consideration in allowing CAYA to have the bingo operation that supports programs for youth in the central area. He introduced two board members present: John Little and Brenda Little. He said the organization tries hard to comply with the Gambling Commission rules because they appreciate the opportunity to have bingo.

**Mr. Preston** said they anticipated a greater number of board members to be present today, but they were unable to attend due to last minute obligations. He said CAYA provides vital services to the population of Seattle. They had hoped to have a video to show to the Commission, but their only copy of the video was given to M.C. Hammer when he was in town.

**Mr. Preston** said the CAYA has been involved in bingo for almost a decade, first located in the central area and then moving to 130th and Aurora. The services have expanded during the period from two programs to 13 programs operated for young people in the area. They will now also be involved in the weed and seed program. In 1981, there were 300 young people; now there are just over 4,000 and they continue to grow. The vast majority of young people involved in CAYA are involved in the Social Development Through Sports program, with the Special Tutors for At-Risk Students coming in a very close second in involvement. They have expanded to include mentorship, job readiness, alliances with Seattle 4-H Clubs for a leadership program called "Challenge," which includes an Outward Bound activity. A new program is being started where young people will run the concession stand, called "Pitstop Concessions," at the Madrona Bathing Beach park in Seattle. Bingo is not the only area they will use to bring revenue. The fundraising programs will teach the young people that economic independence is far better than just experiencing services as a hand-out. There is a new area called Multimedia and Performing Arts, where the children will make music and video presentations and movies.

**Mr. Preston** said there are so many programs that are new, and one thing to understand is they are an independent non-profit and manage themselves. They've outgrown the current facility. When he began with the organization, they were serving 300 kids with three staff people, they were \$40,000 in debt and the building was condemned. Since then, they have developed a strong board of directors and programs, and they have recently purchased a new facility that they are renovating right now, which is being called the "Cotton Club Project." It's 21,000 square feet on a 71,000 square foot site. They have been involved in the demolition of the site for three weeks and plan to have a kick-off on June 24th to begin the renovation. Most of the dollars for the project will come from charitable contributions. Once completed, they will be able to serve even more young people than the 7,000 square foot facility with 20 staff members and 13 programs is able to serve.

**Mr. Preston** said they recently went through a reorganization and developed four division directors and a new division to provide a new focus on young women's services. That division will house a program called "Teen Path" and a program called "Balance." Teen Path works with sexually-active women who have become pregnant and have been kicked out of their house because of their pregnancy. The CAYA works with the Seattle Housing Authority, foster care, and dormitory group home living situations so the women can continue going to school with a place to live and have employment to help them succeed in raising their children.

**Mr. Preston** said the Balance program takes young women off the waiting list for Teen Path and allows others to come in and learn to balance the choices in their lives to stay in school, defer child bearing, develop skills for a positive outlook without welfare and a cycle of poverty. Historically, the CAYA has provided programs for young men, so this is an expansion to recognize the need to develop the entire community in order for any of the community to thrive. In sports, they now have an AAU girls basketball program. He introduced other key people in the organization: the director of business operations, the accountant, the primary bingo manager, and the assistant bingo manager.

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**Mr. Preston** said his final comment is that CAYA is known more for its tutoring program for at-risk students than for any other program. It is the second largest program and is operated with money largely from bingo, but also receives funds from the City of Seattle, the state of Washington and the Seattle Public School District. Each year, more than 900 student receive one-on-one tutoring, so a large percentage of volunteer hours are there. He said the volunteers enable them to be one of the most dynamic agencies serving the inner-city in Seattle. He asked for questions.

**Commissioner Keefe** asked where the new location is. **Mr. Preston** said it's the old Heritage House, or Cotton Club, and is seven block southeast of their current location, and is located on the 800 block of Martin Luther King Way South and Dearborn Street. It's an old strip mall and the buildings are all connected. When the gutting and renovation is completed, it will have a theater and banquet facility for annual banquets and pageants, and for the multi-media and performing arts program. There will be a recording studio, a community club, an office space for 15 people, a full-service kitchen and space for a new program that is a franchise of Domino's Pizza for the entrepreneurial program.

**Chairman Graham** asked about the \$142,000 drop in net bingo revenue from 1990 to 1991. **Mr. Preston** said the response to that was to have regular meetings with the director of business operations, himself, the accountant and the primary bingo manager to take a look at all the other games in their area to see what their format was and average payout. They found CAYA's average payout to be much higher per session, sometimes as high as \$1,900 per session. They made some subtle changes to remove excessive payouts. The percentage is now in compliance, and the average net per session has gone up to restore the deficiency. He said they feel they've solved that problem for now. They have been in compliance for the first two quarters of operation and have realized a greater return. **Chairman Graham** asked Mr. Preston what kind of cooperation they've had with the Gambling Commission in coming back into compliance. **Mr. Preston** said staff has been both helpful and tolerant of the situation. They had a meetings in Olympia and have recently sent a memo to Frank Miller outlining the format changes and the successes. **Mr. Brown** added that CAYA has been the victim of competition. A new game started in the area last year that had a bearing on CAYA's progress. **Mr. Preston** said that the introduction of new games has been an issue the WCCGA is addressing and is working on proposals to the Gambling Commission. The Cascade game moved closer and the Youth Soccer game was started; both had an impact on CAYA's crowd. Their customer base doesn't grow as fast as the proliferation of games. He thanked the Commission for its patience and tolerance while CAYA has adjusted their game to meet regulations. **Chairman Graham** asked Mr. Bishop if staff is asking for recertification or temporary recertification; **Mr. Nunamaker** said there is an on-going audit and a couple of issues need to be resolved; **Ms. Brychell** said there is an audit being conducted in the field and that needs to be completed before granting full recertification. Staff is requesting temporary recertification at this time.

**Mr. Preston** said the audit is ongoing and they have not received feedback as to why it's been going on so long. Aurora Bingo provides upwards of 60 percent of total operation costs, and a lot of young people who are at risk depend on their programs. **Commissioner Keefe** asked how long CAYA has been in its present location; **Mr. Preston** said they've been there since October of 1988, and were located at 23rd near Union from 1983-88 with very limited success due to the poor location and crime. **Mr. Bishop** said the ongoing audit is not the entire reason for requesting temporary recertification, but that staff has not received recent financial information and are waiting for 1992 fiscal year-end data, which becomes one year old at the end of this month. The



earliest they could have gotten their financial reports out would have been last October or November. **(Accountant)** said the financial statements in question are now completed and copies are available. The documents will be submitted to the Gambling Commission this week. **Mr. Bishop** said that, as soon as staff receives it and reviews it, staff will have another recommendation to make.

**Mr. Preston** said the timing of the audit makes it difficult because their normal annual audit for qualification as a United Way agency comes at a later time, and they need to wait for all the tax returns are completed and then they can get a lower price on their audit as a result of waiting. He said this will happen each year with the timing, and there has always been a delay so that the audit costs less and they have more money to use for services instead. **Mr. Bishop** said it would not be reasonable to ask for the information much earlier, but the information staff has waited for is 18 months old now, and staff will need time to look things over.

**Commissioner Mosbarger** moved for temporary recertification; **Commissioner Divine** seconded the motion, motion carried (Commissioner Keefe abstained).

**Chairman Graham** called for executive session and adjourned the meeting until Friday morning at 10:00 a.m.

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, JUNE 11, 1993

**Chairman Graham** called the meeting to order at 10:00 a.m., at the Sheraton Hotel, Seattle, Washington.

**MEMBERS PRESENT:**PATRICK GRAHAM, Chairman; Commissioners THOMAS KEEFE, ROBERT TULL, ARDITH DIVINE and WANDA MOSBARGER, and Ex Officio Member REPRESENTATIVE JUDI ROLAND.

**OTHERS PRESENT:**FRANK MILLER, Director; SHARON TOLTON, Special Assistant to the Director; BEN BISHOP, Assistant Director; NEAL NUNAMAKER, Deputy Director; CALLY CASS-HEALY, Program Manager; JONATHAN McCOY, Assistant Attorney General; SUSAN YEAGER, Executive Secretary.

**Chairman Graham** began with introductions.

#### APPROVAL of MINUTES

**Commissioner Divine** moved for approval of the minutes from the May 13-14, 1993 meeting in Yakima; **Commissioner Mosbarger** seconded the motion, motion carried.

#### STAFF REPORTS

**Shanna Lingel** gave a report:

##### **ADOLESCENT PREVALENCE STUDY SUMMARY**

The adolescent prevalence study was initiated and funded by the Washington State Lottery. This is the first adolescent study that allows comparisons of adolescent and adult gambling involvement in the same state.

The study consisted of random sampling 1,054 Washington State adolescents between the ages of 13 and 17. The adolescents were interviewed in January and February, 1993, about the types of gambling they had participated in, the amounts of money spent, the problems related to gambling and other risky behaviors including drug and alcohol use.

##### **Key Findings of Study:**

In Washington State, 83% of the adolescent respondents had participated in one or more gambling activities at some time in their lives. Lifetime gambling participation rate among adults was 91%.

**Ms. Lingel** said the study showed adolescents who had ever gambled were more likely to be male and have an average weekly income of \$50 or more in allowance and wages. The older adolescents were more likely to have ever gambled than the younger adolescents. The adolescent respondents were most likely to have wagered on raffles, sports events with friends or acquaintances and on card, dice or board games with friends or family members.

The average age the respondents started gambling was 12 years old and they were most likely to have started gambling on card, dice and board games with friends and family and on sports or other events with friends or acquaintances. Among the respondents 90% meet the criteria for Non-Problem Gambling, 9% meet the criteria for At-Risk Gambling and 1% meet the criteria for Problem Gambling.

It is estimated that 950 to 4,700 Washington State adolescents can be classified as Problem Gamblers with 23,000 to 33,700 classified as At-Risk Gamblers. At-Risk and Problem Gamblers were more likely to be male, less likely to live in a two-adult household and more likely to have weekly incomes over \$50 than Non-Problem Gamblers. At-Risk Gamblers are more likely to have at least one parent who gambles than either Non-Problem or Problem Gamblers.

Based on gambling involvement and reported monthly expenditures, the types of gambling that are more closely associated with adolescent gambling problems are wagering on games of personal skill, card, dice and board games and on sports events with friends and acquaintances. Conversely, the types of gambling that are less closely associated are lottery games, pull tabs and formal sports pools. These activities have clear and enforced age restrictions. Problem Gamblers were more likely to have used tobacco, alcohol and drugs than the At-Risk and Non-Problem Gamblers. Problem Gamblers were also more likely to have experienced difficulties related to alcohol and drug use than the At-Risk and Non-Problem Gamblers.

**Ms. Lingel** said the results of the study clearly show that the majority of Washington State adolescents gamble without problems, but a substantial number do appear to be at risk of developing gambling related problems. Public education, gambling-specific education in high schools and colleges and training for individuals working with troubled adolescents are recommended as preventative measures. Other recommendations included regulatory efforts, education of vendors and operators, and sensitivity in product development by the industry in cooperation with the state's regulatory agencies to minimize the attraction, availability and accessibility of gambling products and services to adolescents.

**Commissioner Mosbarger** asked what criteria were used to decide who was about to become a problem gambler. **Ms. Lingel** said the survey included a scientific test, and that information could be sent to Commissioner Mosbarger. **Director Miller** said that's all for staff reports.

## **RULES**

**Ms. Tolton** said there are a number of rules up for final action. Item 3A (1) was continued from the May meeting and was filed as an emergency in March. It has an expiration date in the middle of July. Staff is requesting a couple of changes to this rule, which is a new section, WAC 230-20-111 -- Entertainment in bingo halls. Staff is proposing deleting the reference "live" from the entire proposed new rule, with the exception of the portion saying "whether live or recorded." The title would then be "performances as gifts, advanced approval required," and the word "live" would be deleted from the provision with the exception of the six line of the rule that says "whether live or recorded." Staff recommends final adoption at this time.

**Commissioner Mosbarger** moved to accept the rule as amended; **Commissioner Divine** seconded the motion, motion carried with three aye votes.

## **BINGO**

**Mr. Bishop** said there are six rules being recommended for approval by staff come from the bingo study committee with staff review and concurrence. The first rule, WAC 230-04-040, language was moved from WAC 230-20-064. This requirement allows staff to evaluate licensee's ability to comply with net income requirements when applying for a higher level license. It also forces management to complete a business plan before beginning bingo. A through H lays out the minimum requirements, and it is not a denial process but an advisory process.

**Chairman Graham** said, after conferring with the commissioners, to take these rules as a group. **Mr. Bishop** said the next rule, 230-08-095, is housekeeping in nature and adds clarity to accounting requirements. Staff had differing interpretations about minimum requirements for capitalizing assets. This says assets below \$2,000 do not have to be capitalized, but organizations can elect to capitalize on any level below that. The next rule is 230-20-010 is housekeeping also. Part of the language came from previous 230-20-246, and it adds one new requirement for advising players regarding retail value of merchandise prizes. If the prize is advertised at a retail price, then they must so state with "MSRP" or some sort of language. **Mr. Bishop** said 230-20-064 is the rule with the most conversation among the committee and has to do with adjusting net income requirements to match the current environment. Variances were allowed for competition factors. There has been a major problem with consistency and gaining compliance on net income requirements. This sets penalties for bingo managers, and staff would like to add some clarity to this proposal now. There was a scheme setting out five violations in a row to cover a five-year period, each level being a little more stiff. The licensees expressed concern that there was no time frame set out for them to be able to expunge their record. Staff proposes that anyone without a violation for three years will be started at the lowest level of penalty again. This is the basic policy on all violations and would be consistent. **Director Miller** said this one is not being amended today due to timing. These rules up today will become July 1, the rules remaining next month and later will become effective January 1. Staff will be coming forward in approximately 90 days with the amendment. The code revisor cannot get the rule filed and changed in a timely fashion, so it's held up a minimum of 90 days. On the record, it will be enforced as is, and if there are no violations for three years, they start over at the lowest level. The amendment will be up for approval in 90 days.

**Mr. Bishop** said 230-20-242 is a new section. Language was removed from 230-20-246 to reduce the size, and clarity was added. It takes all the various schemes that are allowed at bingo games and puts them into one section. It also increases the value of promotional gifts to a maximum of \$3.00; previously being \$2.00. The last rule in this packet, 230-20-246, consists of

housekeeping changes. Sections were removed and placed into either 230-20-010 or 230-20-242.

**Chairman Graham** called for comments. **Debbie Scott, WCCGA**, said these rules have been the outcome of the bingo study committee meeting and the WCCGA would like to go on record as supporting these rules for final action. **Commissioner Tull** moved that the rules be adopted as presented; **Commissioner Divine** seconded the motion, motion carried.

**Chairman Graham** said one of the commissioners has asked for clarification on the vote for Item 3A (1) Promotional Activities -- Bingo. He polled the members for their vote. **Commissioner Mosbarger** said she voted for passage, **Commissioner Divine** voted for passage, **Commissioner Keefe** said he voted for passage, **Commissioner Tull** said he has expressed reservations in the past with this approach, he appreciates the effort staff has put into the rule but he still thinks it is unnecessary and he voted against it; **Chairman Graham** said he also voted against, so that makes it a vote of three for and two against. It passed.

## **CARD ROOMS**

**Ms. Tolton** said the next rule is WAC 230-40-125 and relates to Washington Blackjack and is up for final action today. It was proposed by staff in conjunction with the card room study group and provides for decreasing the players' collection of a natural 21 from twice the amount of bet to 1.5 times the amount of bet; allows the player to deal more than one consecutive shoe before passing the deal if there are less than five players at a table the remaining players have already passed. Conditions for doubling down will be set by house rule, provided that the wager may be doubled and the player received only one more card. Staff recommends final adoption at this time. **Chairman Graham** asked for public comment. **Director Miller** said this rule is a result of the committee meetings with the Recreational Gaming Association and it simplifies the methodology of playing blackjack and eases restriction. It does not result in increase in wagering. After having the program in place for the last two years with very few problems, staff recommends passage today.

**Commissioner Mosbarger** moved for final adoption, **Commissioner Divine** seconded the motion, motion carried.

**Ms. Tolton** said the next group of rules are among a number of rules staff has that are basically housekeeping changes resulting from changes made to the RCW 9.46. She said the first, WAC 230-12-030 -- No beer or liquor as prizes, amends the RCW reference and clarifies the issue of liquor being raffled during an unlicensed activity and references the WAC to which that was changed two sessions ago. Staff recommends filing for discussion. **Ms. Tolton** said Item 3B (2) is WAC 230-02-400 and amends RCW references to card games. Item 3 is WAC 230-20-070 -- Regulation of managers, operators and other employees -- also changes RCW references. All three rules are housekeeping changes and staff recommends filing with final action two more meetings from now, and the effective date would be January 1, 1994.

**Commissioner Tull** moved that these items be filed for consideration, **Commissioner Mosbarger** seconded the motion, motion carried.

## **ADDENDUMS**

**Chairman Graham** said the next item is an addendum; **Ms. Tolton** said the first indicates two rules: WAC 230-08-010 -- Monthly records; and WAC 230-30-072 -- Punchboard and Pull Tab inventory retention requirements. The Commission passed these two rules for final action in May, but when they were filed with the Code Revisor, a date of June 11, today, was the date for final adoption. Staff asks that the vote be retaken on this in the event that someone has read the book and is here to testify. **Chairman Graham** asked if anyone wishes to come forward with questions or comments on these items; no one came forward or spoke. **Commissioner Tull** moved to reaffirm approval on these two items, **Commissioner Divine** seconded the motion, motion carried.

## PETITION

**Ms. Tolton** said the second addendum is a petition from Sugarloaf Creations Inc., Randy Fagundo is the president. Staff and Mr. Bishop in particular has been working with Mr. Fagundo on the language in this petition. There is a slight problem is requesting any action today, because recent action was taken on WAC 230-20-670, which is the last reference in the petition. Due to the overlap with the code revisor's ability to codify the recent change to 230-20-670, staff would like to ask that the petition be held for action in July. The petitioner is agreeable to that. She said there are representatives of Sugarloaf present. **Chairman Graham** asked if they would like to address the Commission now; hearing nothing, he said they would be able to address the Commission at its July meeting on this issue.

**Chairman Graham** said there is a hearing on appeal coming up at 11:00 a.m. He announced that Commissioner Keefe's term runs out on June 30, 1993, so this is his last meeting and he is retiring from 10 years on the Commission. He was appointed to serve on the Gambling Commission by Governor Spellman in 1983, and last night there was a retirement party for him. Staff and audience applauded Commissioner Keefe for his service. **Chairman Graham** asked if Commissioner Keefe had any last words of wisdom; **Commissioner Keefe** said he passes on making comments. **Commissioner Tull** said it's important for new commissioners to know that commissioners Tull and Graham learned the job from Commissioner Keefe. He said it's important to have differing opinions, attitudes and approaches on the Commission, and he said he hopes he will not have to serve as the only lawyer member of the Commission for very long. He said Commissioner Keefe has been an incisive, articulate, and determined person on the board who offered wisdom from his involvement in the community and the skill of 40-50 years in the practice of law. At all times, he said he's had the highest esteem for a great colleague. He said it wouldn't hurt his feelings if Mr. Keefe were to serve on the Commission for a couple more months until a new commissioner is appointed. Commissioner Tull thanked Commissioner Keefe for the great example he's set for everyone.

**Ron Sellar, WSLBA**, said they have not always been in agreement, but it was interesting to hear different points of view, and the Commissioner Keefe will be missed. **Commissioner Keefe** said not have always be right, but he was never in doubt. **Commissioner Tull** said that the history of the evolution of charitable gaming in this state focuses on the review system that is now in place to examine the missions and performance of charitable and non-profit licensees, which resulted from Mr. Keefe's desire to make the Commission think about what is the proper expenditure of charitable funds, and is the community being served as it should. The Commission's process has now evolved into a system that brings positive results because it gives the Commission a chance to see what these organizations are doing, and the community and licensees can see how the Commission operates.

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**Chairman Graham** said this is also the time to elect a new chairman, as his chairmanship term runs out the end of June. **Commissioner Mosbarger** nominated Commissioner Robert Tull to be chairman for the next two years; **Commissioner Divine** seconded the motion, motion carried. **Commissioner Divine** nominated Wanda Mosbarger as vice chair; **Commissioner Tull** seconded the motion, motion carried.

**Chairman Graham** said there is another vote to be taken. The 1993 Legislature formed a task force to look into the future of Gambling in the state, and one member of the Gambling Commission is to be elected to that task force. Frank Miller will be an advisor to the task force but does not wish to be a member. **Commissioner Tull** nominated Patrick Graham to that position; **Commissioner Mosbarger** seconded the motion, motion carried. **Commissioner Tull** asked when those meetings will begin; **Director Miller** said some appointments were made this week and the rest should be completed soon, and meetings need to start soon so that the report can be made to the Legislature in January 1994. **Commissioner Tull** said that, depending on how that conduct their business, it could lead to the Commission having to schedule an occasional extra Commission meeting if there is time pressure. **Chairman Graham** said he would try to keep people informed on information coming from the meetings of the task force.

**Director Miller** said he'd like to give a briefing on tribal gaming activity for the past month or so. He said the Commission just approved two new compacts and forwarded them to Governor Lowry for his approval and signature: one with the Squaxin Island Tribe and one with the Quileute Tribe located on the Olympic Peninsula. The compacts are similar to others already in place, and the Squaxin is similar to the Muckleshoot proposal, and the Quileute is similar to Tulalip. KING 5 news reported that the Squaxin Island Tribe would be building a casino "in partnership" with the state of Washington. That is incorrect. The state has no investment, but will be working together with the Tribe on regulation. On the national level, Commissioner Tull and Director Miller met with national representatives to discuss tribal gaming issues and IGRA recently. Committee people and staff people from Senator Inouye's office, and the chairman of the National Indian Gaming Commission met with them to discuss the push to open the federal act. There are questions as to what roles the states should play, what is negotiable, etc. The industry has grown to far more than what was ever envisioned by the framers of the Act. He said he hopes the Act will be reopened and clarified in a manner that is fair to all.

**Director Miller** said the Colville lawsuit against the state for bad faith was dismissed on the grounds that the lawsuit violated the 10th and 11th Amendments; so at this time, both the Spokane case and the Colville case have been dismissed against the state. The Spokane case is on appeal. There are now 10 compacts -- eight approved, two going to the Governor -- negotiated. The Commission has received compensation for everything it has billed for. The goal is to fund this program totally by tribal fees and that's the way it's going. **Commissioner Tull** asked if he's heard anything about the legislation introduced in the U.S. House and Senate on May 25th; **Director Miller** said he's not heard anything about response yet. **Commissioner Tull** said there was a radio report that the Upper Skagit Tribe's negotiations with the Sahara people have been terminated. **Director Miller** said some tribes are trying to manage their own projects; Squaxin Island has terminated its relationship with First Astri and is trying to fund it themselves.

**Chairman Graham** said there will now be a break, then the hearing on appeal, and then return to regular session following the hearing.

**HEARING on APPEAL**

**Michael Ray Ealy, d/b/a/ Sidetrack Pub & Eatery**

**Chairman Graham** turned the appeal hearing over the Vice Chairman Tull, since his attorney background will better serve this case. **Commissioner Tull** said, for the record, the appeal hearing is now convened for Michael Ray Ealy, CR92-1476. Mr. Ealy is present, and Kim O'Neal, Assistant A.G. is present on behalf of the agency staff. He offered the appellant the first opportunity to speak to the Commission with arguments that are appropriate, not for new information but for items already on the record to indicate where he thinks the administrative law judge might have made an error. After Mr. Ealy's presentation, Ms. O'Neal will reply with argument. It is the Commission's normal practice to afford each side a total of 10 minutes for argument. Mr. Ealy has the right to split his time and save some portion for closing remarks. **Mr. Ealy** estimated his testimony would not take more than five minutes.

**Commissioner Tull** said all the commissioners have been provided with a packet containing all the essential papers and records in this matter, including a transcript from the hearing before Administrative Law Judge Heller.

**Mr. Ealy** said he's had a gambling license for 10 years. He lost his lease three years ago and had to relocate, which caused him to fall behind financially with virtually every state government and other collectors. He's been trying to take care of these debts for the past two and a half years and has paid all but three. He would like to keep his license in order to pay off his debts and to stay in business and support his family. He said he knows what he did was wrong, but he did so to keep in business. He said he will do everything in his power to keep current, and he's kept current with King County since the beginning of 1992. He's made an effort to pay everyone back with interest and penalties. He'd like a little more time to take care of it. **Commissioner Tull** said he used just under three minutes of his time.

**Ms. O'Neal** said she is the Assistant Attorney General representing staff in this matter. She pointed out that the argument that Mr. Ealy is making is essentially an equitable one. He is not challenging any of the procedural aspects of this matter or saying that the hearing officer made any errors of law or fact. He is challenging none of the findings of fact or conclusions of law. His argument here to the Commission is essentially the same argument he made to the hearing officer. By statute, she said all licensees are required to pay both state and local taxes. By Gambling Commission rule, the failure to pay such taxes is grounds for revocation of a gambling license. In addition, Mr. Ealy was criminally charged by King County for his failure to pay these gambling taxes and he was convicted, which is also grounds for revocation of his gambling license. He is required by statute to report to the Commission that he has been criminally convicted of an offense relating to gambling, but he did not. He made an informal contact with a gambling officer to report that he was "going to court," but he did not report to any Gambling Commission staff or other authority that he had been criminally convicted for failure to pay taxes. This is an additional grounds for revocation of his gambling license. **Ms. O'Neal** said the Commission would not be putting him out of business or removing his ability to engage in the business that he has established, only whether he can continue the privilege of holding a gambling license. He is asking for additional time. She said he knew he had a requirement to pay these local taxes and he was given several opportunities by the local authorities to pay those taxes, he agreed to a repayment schedule that was quite generous, but he failed to comply with that. He



admitted that he has chosen to pay other creditors in advance of paying his gambling taxes, which is not a legal choice the license has to make. A licensee must pay gambling taxes in order to qualify to retain the license.

**Ms. O'Neal** said the administrative law judge pointed out that it would be grossly unfair to allow this licensee to not pay his gambling taxes when he is in competition with others who hold gambling licenses and do pay their taxes on time. Staff has an obligation to the other local taxing authorities -- who don't have the Gambling Commission's ability to revoke a license in response to failure to pay -- to support their efforts to collect those legally-required taxes. The criminal charge has not resulted in payment to date. The revocation should stand until Mr. Ealy demonstrates that he qualifies and will maintain his taxes in a current status.

**Commissioner Mosbarger** said Mr. Ealy owed \$18,000 in taxes and paid approximately \$3,000. She asked where that stands now and how much more he has paid. **Ms. O'Neal** said her understanding was that, at the time of the hearing, he owed \$13,000. If there have been additional payments since then, she has not been notified of that. **Mr. Ealy** said he made one payment last Friday of \$1,000. **Commissioner Keefe** asked when the last license was issued; **Ms. O'Neal** said it's an annual license. **Commissioner Keefe** asked when the last time the license was issued, and was he behind on taxes at that time. **Ms. O'Neal** said that the answer is probably yes, he was issued a license while still behind on taxes. **Commissioner Keefe** asked if there is a question on the application that asks to state whether or not back taxes are owed. **Director Miller** said he is not aware of that. **Commissioner Keefe** suggested that they be required to state that when they apply for a license so that the Commission can determine eligibility. **Director Miller** said that's a very good point, that the agency has never taken that approach, but that may be worthwhile to do. The position has always been, since the Commission does not collect taxes, that the Commission will not take a case until there is a conviction. The Commission has asked the cities and counties to take the first step, and if a conviction is the result, then the Commission will carry out the RCW.

**Commissioner Tull** noted that an excursion just occurred off of the normal strict approach. He said he feels it is in the best interest of this case to allow some of these questions and responses in order to understand the situation. **Commissioner Tull** said he will allow Mr. Ealy the opportunity to comment on any of these comments in a moment. **Ms. O'Neal** said there is no argument, though, that Mr. Ealy was unaware of his obligation to pay taxes. He admitted on the record that he understood the obligation to pay and that he agreed to the repayment schedule and that he had not kept up with the schedule. **Commissioner Keefe** said his point is that when a person applies, they should be informed that they will not qualify for renewal if they owe back taxes. **Commissioner Keefe** said that Mr. Ealy's punchboard/pull-tab business is not incidental or stimulant, but it is THE business. **Ms. O'Neal** said that, as a policy matter, that is something within the Commission's power to deal with, but she would argue that should have no bearing on this case. **Chairman Graham** asked the last time his license was renewed; **Mr. Ealy** said it's on its sixth month, was renewed in December and is due at the end of June. **Chairman Graham** asked if not paying taxes is a criminal offense; **Ms. O'Neal** said it's a misdemeanor; **Commissioner Tull** said the state of Washington has never been shy to assert its force to collect. He told Mr. Ealy he still has six or seven minutes to use for comments or to answer questions.

**Mr. Ealy** said gambling is 48 percent of the dollar volume in his business, and without it as a stimulant he would lose customers. He said he's fallen behind with other people and is now taking care of that and knows he was in the wrong. He said he's trying to make an effort to make it right

with everybody. Without the license, he said he will close the doors because he's barely able to make the current bills and take care of back payments now. Without the extra revenue, he predicts he'd have to close within three months. Then the taxes would probably stand for a few years until he could find employment. He said he didn't realize to what extent he'd done wrong or that the law was as tough as it is, but everybody has been after him to pay and he's been responding to those who push the hardest, and maybe that wasn't right, but every nickel coming in is going back out to take care of back taxes and keep the ones that are current, current. He said he wants to take care of what he owes. **Commissioner Divine** asked about the payment schedule; **Mr. Ealy** said he's supposed to pay \$3,000 a month, which they set up and he told them he would try to make, but he hasn't had the cash flow to take care of that much and they wouldn't agree to a smaller payment amount. **Chairman Graham** asked how long he's been in business; **Mr. Ealy** said, at his current location, two and a half years; ten years total. **Commissioner Mosbarger** asked if he's had problems with taxes in the past; **Mr. Ealy** said the only other time was when he went through a divorce and fell behind for about three or four months, and he said he took care of that when he got back on his feet, in 1986 or so. He's kept current up until the point in 1991, which was the only year he fell behind on taxes. He said he's kept current for 1992 and 1993.

**Commissioner Tull** said the normal procedure is for the Commission to now meet in executive session and come back later and announce a decision if one is made immediately. Assistant Attorney General Jonathan McCoy will join them in executive session, and he is the legal advisor to the Commission. **Commissioner Tull** called for a 2-3 minute recess, then executive session to deliberate this appeal, then come back after about 10-20 minutes to announce the findings. After the report is made, there is other business and the public session of the Commission meeting will continue after the appeal.

\* \* \* R E C E S S \* \* \*

**Commissioner Tull** called the hearing back to order in public session at 11:43 a.m. He said the Commission has spent the last 15-20 minutes deliberating on the appeal of Michael Ray Ealy and has reached a decision. He said his present oral wording of this is not the final wording of the order, which will be prepared by Jon McCoy and reviewed by the Commission and then signed. The gist of the decision will be given now. He said the Commission sees nothing in the record to upset the administrative law judge's findings, and therefore they do uphold the revocation that he has recommended. However, they have suspended the revocation for a period until the Commission's meeting in November. At that time, the Commission will determine whether or not any further suspension of the revocation is appropriate and whether any such suspension shall be granted. In order to keep the staff and Commission apprised of efforts that the appellant had indicated will be made to keep his tax problem from getting worse, a condition of the suspension of revocation will be the requirement that the licensee report monthly to the Gambling Commission's Seattle office. His efforts during the preceding month to pay not only current but also back taxes and evidence of those payment will be submitted at the time of that report. It need not be an elaborate report, but there must be a record that the administration can review and that the Commission can see. **Commissioner Tull** introduced the Commission staff person who heads the Seattle office, John Brinsmead, who is in the back of the room. He said the Commission does not want any excuses for not reporting. The issue of whether or not this suspension will continue beyond November will depend on the progress made, and if there is non-reporting, it will be unlikely that the suspension would stay in effect, even until that time. Staff will be instructed to keep the Commission informed of any failure to report. The licensee would be temporarily

relicensed at the end of this month. **Director Miller** asked if payment on a monthly basis is required to reduced the debt. **Commissioner Tull** said they are not requiring payment, but the Commission wants to know monthly what he does to meet current obligations, and the Commission is reserving the discretion to come back in the event of non-reporting, at any time; and in the event of faithful reporting, it will be determined at the November meeting whether or not the suspension will be continued or not. **Director Miller** asked if faithful reporting the same as faithful payment. **Commissioner Tull** said he must report. The Commission is not imposing any new or additional requirements for payment; he is under payment obligations already and the Commission cannot and will not alter those. **Director Miller** asked if the amount is not paid up in full by November, then the Commission will review it. **Commissioner Tull** said they are not stating that the entire amount of arrearages have to be paid by November, and the Commission is not in the position at this type of proceeding to design a business plan. He said they'd like to see what he does given this chance. If some disregard for this opportunity is blatant, then he would not be inclined to continue the suspension. **Director Miller** asked if he still has the ability to take summary action if he does not pay current taxes. **Commissioner Tull** said the Commission is very concerned that he pay current taxes and Mr. McCoy should be consulted on that specific issue. He said he wants to make it very clear that this is not a sanctioning of non-payment. Local governments take actions and have a variety of remedies available, but in this situation the equities are being weighed and the Commission does not set aside the seriousness of the failure to report violation.

### **UNFINISHED BUSINESS**

**Chairman Graham** said that yesterday in executive session the commissioners reviewed a study that they asked for in January to look at the pay schedule of persons in state government who are comparable to the director of the Gambling Commission. At that time in January. The pay study was presented by Assistant Director Juli Anderson to the Commission yesterday and the Commission reaffirmed their intention to raise his salary at the January meeting. Yesterday it was decided and passed, and this is a public announcement the director's salary is being raised by four percent immediately. He said it was passed unanimously by the Commission. **Commissioner Tull** said he was not present yesterday but said he remembers back in January that the Commission intended to give the director a raise to a certain level pending additional information, and that it occur in two steps: the first in January and the second in June. He said he is in full concurrence with what Chairman Graham just stated. **Commissioner Tull** said it is his recollection that the intention was for it to be automatic, but perhaps for the record a vote may be necessary. **Commissioner Tull** moved that, pursuant to the prior determinations and recent reviews conducted by the Commission, that the director's salary be established commencing today at a rate four percent higher than previous. **Commissioner Mosbarger** seconded the motion, motion carried with a unanimous vote.

**Director Miller** said he has one more item. Yesterday there was a meeting with the distributors and the pricing issue is still a major topic. He asked the Commission for direction, since he sees no consensus forming, although one is certainly not necessary. He said he will be issuing a memo Monday stating that the current rule will be fully enforced. The disagreement is that some distributors want a built-in mark up, and staff is taking a totally opposite approach to that to allow a floor that cannot be gone below, basically that they cannot sell below cost. He asked for comments. **Chairman Graham** said his personal version of what went on yesterday is that the majority want staff to enforce the present rule with no changes. He said there is a force that would

like to see the rule eliminated completely and a third force that would like a guaranteed price. The discussion is now going no where and the director should inform the group that, until the group has something more concrete than what's been presented in the last week, or until there is another subject to take up, there will be no more meetings.

**Commissioner Mosbarger** said she sat through the meetings, and part of those three factions are on both sides of the story at the same time. She agreed that the only position that needs to stand is that they are not allowed to sell below cost. **Commissioner Divine** asked what "below cost" is, and if that includes shipping. **Director Miller** said the current rule says they must sell at the same price to everybody throughout the state, and it doesn't take into account shipping, and any discounts must be available to everybody. It's difficult to enforce, so this approach says that whatever the cost is, distributors will not sell below that. **Commissioner Divine** asked if volume discount will still be allowed; **Director Miller** said they'll still be able to do that under this proposal, because there would no longer be any requirement to sell at the same price and they will have to go out and market their product, which is what they've been doing for years anyway. It brings up other problems though, and it will be open for three or four more months of debate. Now it's at the point where he doesn't want to expend a lot more resources in this area. The Commission's role is to ensure the free flow of product, and ensuring that no one party corners that market.

**Commissioner Tull** said that the only way the Commission can give guidance is to have a rule present and to vote. If the director, after all these efforts, cannot bring forward a joint recommendation, then he should bring forward his recommendation, which will then be subjected to the rule making process. **Chairman Graham** said that group has been told many times that they can bring a rule forth of their choosing, but they have not been able to get a majority in favor of any one rule. The only reason to disband talks, at least for three months, is the message sent out to them that the rule will now be enforced and price lists must be sent in, and staff can wait for those three months to see where it goes and what happens. Then, in October, it can be looked at again. **Director Miller** said agents would be out to check and see what violations there are.

**Commissioner Tull** said he'd like to say again it's been a lot of fun having Tom Keefe on the Commission and he thanked him for serving.

**Chairman Graham** adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Yeager  
Executive Secretary

6/11/93